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Decision

Matter of: Client Network Services, Inc.

File: B-297994

Date: April 28, 2006

William L. Walsh, Jr., Esq., J. Scott Hommer, III, Esq., and Peter A. Riesen, Esq., Venable, for the protester.

Helaine G. Elderkin, Esq., and Carl J. Peckinpugh, Esq., Computer Sciences Corporation, for the intervenor.

Lee Wolanin, Esq., Department of Transportation, for the agency.

David A. Ashen, Esq., and John M. Melody, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Agency reasonably downgraded protester's proposal under staffing factor evaluation where proposal did not meet solicitation's formatting requirements with respect to page limits and font size; offerors are required to prepare their proposals within format limitations established in solicitation, and assume risk that proposal pages beyond limits will not be evaluated or that proposal will otherwise be downgraded.

DECISION

Client Network Services, Inc. (CNSI) protests the Department of Transportation's award of a contract to Computer Sciences Corporation (CSC) under request for proposals (RFP) No. DTRT57-05-R-20106, for on-site Transportation Information Project Support (TRIPS) services at the Volpe National Transportation Systems Center in Cambridge, Massachusetts. CNSI challenges the evaluation of proposals and the cost/technical tradeoff.

We deny the protest.

The RFP contemplated award of a predominantly cost-plus-award-fee, indefinite-delivery/indefinite-quantity contract, with a transition period of up to 90 days and a 5-year base period, to furnish information systems (IS) and information technology (IT) professional services in support of a variety of Volpe Center transportation and logistics projects. The TRIPS contractor is expected to support approximately 75 to 100 projects (on behalf of approximately 20 sponsor organizations) with strategic and detailed technology assessments, requirements analysis, concept development,

architecture design and alternatives analysis, software development, test and integration, system training, system maintenance, and system operational support for both transportation and logistics management IS. Determination to Continue Contract Performance at 2; RFP § C.4, at 16.

The solicitation established detailed education and experience requirements for the types of personnel typically furnished in support of Volpe Center projects. In addition, the solicitation required offerors to propose and furnish resumes for several personnel—a transition manager, a program manager, contract management and administration personnel, and 22 IS specialists in six labor categories—that “demonstrate the qualifications of the Offeror’s proposed personnel in terms of its technical expertise, experience, education, capabilities, and accomplishments relevant to the functional area requirements of this contract.” RFP § L.5.B, at 83.

Award was to be made to the responsible offeror whose proposal was determined to “provide the greatest overall value to the Government” based on consideration of cost (including probable cost, consistency between technical and cost proposals, compensation of professional employees, and proposed fees) and five technical evaluation factors: (1) technical excellence, including the offeror’s understanding of the key IS issues and future directions, understanding of and approach to the portfolio of IS tasks currently performed at the Volpe Center, and understanding of the government’s requirements as shown by the effectiveness of the offeror’s response to four hypothetical tasks set forth in the solicitation; (2) management approach, including approach to managing staffing and staffing fluctuations; (3) transition approach; (4) staffing; and (5) past performance. RFP § M.1.A, at 111. Technical excellence and management approach were of equal weight; transition approach and staffing were of equal weight, but each was less important than either technical excellence or management approach; and past performance was least important. Overall, the technical evaluation factors when combined were significantly more important than cost. The technical proposals were to consist of a written proposal and an oral presentation. The solicitation established page limits for each portion of the written proposal, including the limitation that the “[r]esumes submitted . . . may not exceed an average of two pages per resume.” RFP § L.5.A, at 72.

Seven proposals were received, including those of CSC (the incumbent), CNSI, and QSS Group, Inc. Following its evaluation of the written proposals and oral presentations, the agency rated CSC’s and QSS’s proposals good, and CNSI’s acceptable. (Of the remaining proposals, not relevant here, two were rated acceptable and two marginal.) The agency evaluated proposals as follows:

	CSC	QSS	CNSI
TECHNICAL			
Technical Excellence	Exceptional	Good	Acceptable
Management Approach	Good	Good	Acceptable
Transition	Exceptional	Good	Good
Staffing	Acceptable	Acceptable	Marginal
Past Performance	Good	Good	Good
OVERALL TECHNICAL	Good	Good	Acceptable
EVALUATED COST	\$(DELETED)	\$(DELETED)	\$(DELETED)

The agency then performed a cost/technical tradeoff. It first compared CNSI's proposal, which had received the lowest technical risk rating (low) and had the lowest evaluated cost (\$(DELETED)) among the three acceptable proposals, with that submitted by QSS, which was lower ranked than the other proposal (CSC's) rated good but which had an evaluated cost (\$(DELETED)) which was lower than CSC's (\$(DELETED)). Based on a detailed comparison of QSS's and CNSI's technical proposals, the evaluators recommended, and the source selection authority (SSA) determined, that QSS's proposal offered numerous technical strengths relative to CNSI's proposal, and that given that the solicitation indicated that the technical area was significantly more important than cost, these technical advantages warranted payment of the higher cost associated with QSS's proposal. The SSA then determined that the results of the tradeoff conducted between QSS's and CNSI's proposals "effectively eliminated all other offers apart from [CSC] and [QSS] . . . from further consideration for the purposes of determining the best value to the Government." Source Selection Decision (SSD) at 3; Cost/Technical Tradeoff Analysis, Dec. 16, 2005, at 6-8.

The agency then compared CSC's and QSS's proposals. In this regard, while both CSC's and QSS's technical proposals received overall good ratings, the agency determined that CSC's technical proposal was superior to QSS's. Based on a detailed comparison of CSC's and QSS's technical proposals, the SSA determined that CSC's proposal offered a number of technical strengths relative to QSS's proposal, and that these technical advantages warranted payment of the higher cost associated with CSC's proposal. The SSA thereupon determined that CSC's proposal "represents the best value to the Government." SSD at 3-4; Cost/Technical Tradeoff Analysis, Dec. 16, 2005, at 8-10. Upon learning of the resulting award to CSS, and after being debriefed, CNSI filed this protest with our Office.

TECHNICAL EXCELLENCE

The RFP required an offeror, in the technical excellence portion of its oral presentation, to “describe how it plans to meet the IS requirements of the contract and demonstrate that it has the necessary understanding, expertise, and experience to successfully accomplish the SOW [statement of work]/Section C” of the solicitation. RFP § L.5.B, at 85. The evaluated weaknesses for CNSI included, among other concerns, the following: (1) CNSI failed to furnish details concerning its performance on similar corporate IS contracts and focused instead on the individual capabilities and experiences of the presenters at the oral presentation, such that, overall, CNSI did not effectively convey its corporate experience; (2) CNSI did not demonstrate an understanding of, and approach to, the portfolio of IS tasks currently being performed at the Volpe Center; (3) CNSI demonstrated only a limited understanding of transportation and logistics issues; and (4) CNSI did not effectively respond to agency questions during the oral presentation regarding the hypothetical tasks offerors were required to address. Technical Evaluation Team (TET) Report at 33-39; Summary of Offeror’s Proposal–CNSI at 2.

Our Office will review an agency’s evaluation of proposals to determine if the evaluation was reasonable and consistent with the RFP’s stated evaluation criteria and applicable procurement statutes and regulations. Independence Constr., Inc., B-292052, May 19, 2003, 2003 CPD ¶ 105 at 4.

CNSI asserts that the agency’s evaluation unreasonably focused on the fact that the CNSI presenters at the oral presentation “referenced their own experience by saying ‘I’ or ‘my’ instead of CNSI.” Protest at 7. According to the protester, “[c]iting CNSI for such trivialities is irrational.” Id.

This argument is without merit. As noted by the agency, and as discussed above, the contemporaneous evaluation documentation makes clear that the agency’s concern in this area was not with the presenters’ failure to refer to the company in a certain manner; rather, the agency found that CNSI had failed to furnish details concerning its performance on similar corporate IS contracts, such that, overall, CNSI had not effectively conveyed its corporate experience. Cost/Technical Tradeoff Analysis, Dec. 16, 2005, at 7-8; TET Report at 34-39. Our review of the videotapes for CSC’s and CNSI’s oral presentations confirms that, while CSC, the incumbent contractor, cited specific experience and approaches undertaken at the Volpe Center and elsewhere as support for specific proposed approaches to contract performance, CNSI’s references to experience tended to be more general and less closely tied to specific proposed approaches at the Volpe Center. CNSI has made no showing that the resulting weakness assigned its proposal in this area was unreasonable.

CNSI also asserts that “so heavily weighting Sample Tasks that are based in large (if not whole) part on actual tasks already performed for the Agency by another offeror unreasonably favors CSC and prejudices CNSI.” Protest at 7.

We find no basis for questioning this aspect of the evaluation. The solicitation expressly provided that “the Offeror’s understanding of the Government’s requirements as demonstrated by the effectiveness of its response to the hypothetical tasks” would be equally weighted with the offeror’s understanding of IS identified in the SOW and its understanding of and approach to the portfolio of IS tasks currently performed at the Volpe Center in the technical excellence evaluation. RFP § M.2.A, at 111. CNSI has not shown that the agency assigned greater than the designated weight to CNSI’s responses to the hypothetical tasks. Moreover, to the extent CNSI believed that the stated evaluation approach unfairly favored CSC, the incumbent contractor, we note that the RFP both generally described the TRIPS work within the IS functional area at the Volpe Center and specifically described the sample tasks. Since CNSI, which first raised this argument in its initial protest, has cited no other basis for its conclusion that the sample tasks were based on actual tasks already performed for the agency by CSC, we can only conclude that it first became aware of the basis for its protest in this regard from the solicitation. In these circumstances, CNSI was required to protest this alleged solicitation deficiency prior to the closing date for receipt of initial proposals. Bid Protest Regulations, 4 C.F.R. § 21.2(a)(2) (2006). Its failure to do so renders its protest in this regard untimely. In summary, we find no basis to question the agency’s overall evaluation of CNSI’s proposal as acceptable under the technical excellence factor.

MANAGEMENT APPROACH

CNSI challenges several of the weaknesses assessed its proposal under the management approach factor, under which its proposal was rated as acceptable (while CSC’s was rated as good). For example, one weakness reflected the agency’s concern that CNSI’s proposed contract management and contract administration staffing—including the number of project leads it intended to use—was unclear from CNSI’s proposal. TET Report at 4. CNSI asserts that the evaluation in this regard was unreasonable because the RFP did not include workload information; as a result, CSC, the incumbent, was the only offeror that could have known how many project leads would be required.

The evaluation in this area was reasonable. The RFP required offerors to “[d]escribe the organizational structure for accomplishing the functions described in [Contract Line Item Number] 0002, Section C.3.A, Contract Management, of the SOW”—that is, the contract schedule item and SOW section encompassing the “necessary technical and administrative management functions required for effective contract performance”—and specifically required that the “[r]oles, responsibilities, lines of authority, and LOE [level of effort] . . . be clearly described.” RFP §§ C.3.A, at 9, L.5.A, at 78. According to the agency, an electronic vendor reference library made available to offerors included the information needed to satisfy this requirement and estimate the necessary staffing. If CNSI believed the reference library included insufficient information to ensure a fair competition, or that it otherwise was unfair

to evaluate staffing under the circumstances here, it was required to protest on this ground prior to the initial closing time. 4 C.F.R. § 21.2(a)(2).¹

CNSI also challenges the agency's assessment that CNSI's proposal failed to demonstrate knowledge of the local job market/local availability of staff, claiming that this consideration amounted to application of an unstated evaluation factor.

While procuring agencies are required to identify significant evaluation factors and subfactors in a solicitation, they are not required to identify every aspect of each factor that might be taken into account; rather, agencies reasonably may take into account considerations, even if unstated, that are reasonably related to or encompassed by the stated evaluation criteria. See Ridoc Enter., Inc., B-292962.4, July 6, 2004, 2004 CPD ¶ 169 at 4; Network Eng'g, Inc., B-292996, Jan. 7, 2004, 2004 CPD ¶ 23 at 3.

This aspect of the evaluation was reasonable. The SOW required the contractor to "maintain the necessary staffing level and labor mix to meet the requirements set forth in Section C and to be flexible enough to respond to shifts in program emphasis and direction with minimal downtime," and to ensure that "staff turnover is managed with minimal disruption to the job order effort." RFP § C.3.A, at 10. Further, the solicitation required offerors to address in their written proposals and oral presentations their approach to addressing staffing fluctuations and contractual staffing requirements, and specifically provided for evaluation of "the Offeror's approach to managing staff and staffing fluctuations" under the management approach factor. RFP §§ L.5.B, at 78, 85, M.2.B, at 112. Since the solicitation indicated that the "vast majority" of the TRIPS personnel were located in Cambridge, RFP amend. A0001, General Questions no. 5, we think an offeror's knowledge of the job market and availability of staff in that general locality is reasonably related to its ability to managing staff and staff fluctuations so as to maintain the staffing level and labor mix necessary to meet the SOW requirements. It follows that this did not constitute application of an unstated evaluation factor.

CNSI questions the assessment of a weakness with respect to its proposed deputy program manager, who was also proposed as an IS project manager. See, e.g., CNSI Technical Proposal at B-11. In this regard, the agency's technical evaluation team

¹ In its March 27 comments on the agency report, CNSI generally asserts that the agency should have analyzed each offeror's proposed level of effort in light of its proposed approach, rather than with respect to "some predetermined Level of Effort." CNSI Comments, Mar. 27, 2006, at 5. However, CNSI received the evaluation documents on March 3, so this argument, raised more than 10 days after CNSI learned the basis of protest, is untimely. 4 C.F.R. 21.2(a)(1). In any case, CNSI has made no showing that the agency in fact relied on a predetermined staffing level in questioning CNSI's staffing approach.

found that the “Deputy [Program Manager’s] resume and experience reflect a business manager/finance background rather than IT/IS experience. This is not congruent with his role as the IS Project Manager.” TET Report at 40. CNSI asserts that this conclusion overlooks the proposed individual’s “experience in managing complex IS projects, most recently in Maine.” Protest at 9.

The evaluation in this area was reasonable. While the deputy program manager/IS project manager’s resume indicated that [DELETED], it also apparently indicated the predominantly business orientation of his experience. Specifically, the resume indicated that [DELETED]. CNSI Technical Proposal at F-4 to F-6. While the resume indicates [DELETED], given the apparently business-oriented positions held from [DELETED] to [DELETED], we cannot conclude that the agency was unreasonable in finding that the individual was not the most qualified choice to act as an IS project manager.

We conclude that neither CNSI’s arguments discussed above, nor additional arguments made by CNSI and considered by our Office, furnish a basis to question the evaluation of CNSI’s proposal as merely acceptable under the management approach factor.

STAFFING

The RFP required offerors to furnish 22 resumes for key personnel in six labor categories (IS project manager, subject matter expert, IS senior engineer, IS senior programmer, senior systems administrator and IS senior analyst) for whom the offeror could make a firm commitment, and specified that the resumes for these personnel “may not exceed an average of two pages per resume.” RFP L.5.A.2, at 72. Inconsistent with this limitation, CNSI’s proposal included 50 pages of resumes (plus an additional introductory page) documenting the qualifications of the 22 key personnel. Further, while the solicitation specified that the font size “shall be 11 point proportional, averaging not more than 14 characters per inch (reduction is not permitted),” RFP § L.4.1, at 70, the agency determined that the majority of all of CNSI’s resumes was in a smaller font size. Given CNSI’s noncompliance with the solicitation requirements in this regard, and in order to mitigate or eliminate any competitive advantage CNSI might gain, the TET downgraded CNSI’s proposal under the staffing factor from an initial rating of acceptable to marginal. Declaration of Chairman of TET, Mar. 16, 2006; see E-mail from Contracting Officer to Chairman of TET, July 19, 2005.

CNSI asserts that it was arbitrary and capricious for the agency to downgrade its proposal for deviating from the formatting requirements. CNSI notes in this regard that its proposal stated that the

resumes of our 22 proposed key staff average two pages each, in accordance with the requirements outlined in the RFP. For the

convenience of the reader, CNSI has intentionally left some white space after the last resume within a key labor category so that the resumes within a different category begin on a new page, i.e., under a separate tab. This enhances readability and facilitates locating individual resumes easily, but results in an overall page count which is greater than 44 pages.

CNSI Technical Proposal, § F.

Offerors are required to prepare their proposals in the format established by the solicitation, including page and other limitations, and assume the risk that an agency will not evaluate proposal pages beyond the page limits, or take other reasonable steps to eliminate any unfair competitive advantage that the offeror may have gained by violating the limitations. See Coffman Specialties, Inc., B-284546, B-284546.2, May 10, 2000, 2000 CPD ¶ 77 at 3 (agency reasonably downgraded proposal that failed to comply with solicitation's formatting requirements, including page limit); Centech Group, Inc., B-278904.4, Apr. 13, 1998, 98-1 CPD ¶ 149 at 5.

Here, CNSI's proposal both exceeded the 44 pages permitted for resumes for the 22 key personnel and used a smaller font size than permitted for most of each resume. While CNSI asserted in its proposal that the additional pages were merely the result of leaving white space after the last resume within a key labor category, we note that this in fact accounted for no more than approximately 2.3 of the 6 extra pages when counting only the space between the labor categories, or approximately just over 3 pages when including the space after the last resume in the last labor category. Moreover, this does not account for the fact that most of each resume—including, for example, over 90 percent of the deputy program manager/IS project manager's resume, approximately 75-80 percent of the other two IS project managers' resumes, and approximately 80 percent of one of the IS senior engineer's resumes—used a smaller font size than permitted by the solicitation. In these circumstances, the downgrading of CNSI's proposal under the staffing factor for failing to conform to the formatting requirements was reasonable.²

COST/TECHNICAL TRADEOFF

CNSI challenges the source selection on the basis that the agency failed to conduct a cost/technical tradeoff between CSC's technically higher-rated, higher-cost proposal

² CNSI otherwise challenges the evaluation of its proposal under the staffing factor. However, it has made no showing that its proposal warranted a higher initial rating than acceptable, the same rating that was assigned CSC's proposal based on 19 of its proposed 22 key personnel having experience at the Volpe Center or having supported Volpe Center projects.

and CNSI's lower-rated, lower-cost proposal, and thus failed to consider the cost advantage offered by CNSI.

Source selection officials have broad discretion in determining the manner and extent to which they will make use of the technical and cost evaluation results, and their judgments are governed only by the tests of rationality and consistency with the stated evaluation criteria. Chemical Demilitarization Assocs., B-277700, Nov. 13, 1997, 98-1 CPD ¶ 171 at 6.

Here, the record indicates that CNSI's low cost was taken into account in the source selection. As discussed above, the SSA first determined that QSS's proposal's technical advantages offset CNSI's lower cost, making QSS's the better value of the two proposals. Then, the SSA determined that CSC's proposal's technical advantages offset QSS's lower cost, and therefore represented the overall best value proposal. SSD at 4. Since the SSA determined that QSS's proposal was a better value than CNSI's, and that CSC's was a better value than QSS's, we think it follows that the agency effectively found that CSC's proposal was a better value than CNSI's, even without a direct comparison of the two.

The protest is denied.

Anthony H. Gamboa
General Counsel